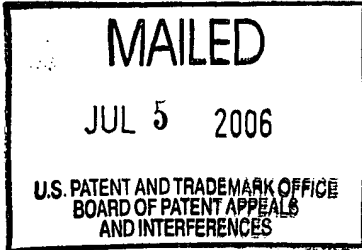


UNITED STATES PATENT AND TRADEMARK OFFICE



BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MICHAEL IAN WILLER,
TAKAYASU MUTO and DONALD ROBERT CALDWELL

Application 10/648,587

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on July 1, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matters requiring attention prior to docketing are identified below:

An examination of the Image File Wrapper (IFW) reveals that Patent No. 6,477,464 (McCarthy et al.) and Publication No. 2003/0040292 (Peterzell et al.) discussed on pages 3-5 of the Examiner's Answer mailed

April 7, 2006, are not included as “Evidence Relied Upon” section of the Answer (Section 8). In accordance with § 1211 of the Manual of Patent Examining Procedure (MPEP) (Eighth Edition, Rev. 3, August 2005), clarification is required regarding the pertinence of the McCarthy and Peterzell references. Compliance with MPEP § 1207.02(A)(8) is required in listing the McCarthy and Peterzell references under the heading “Evidence Relied Upon” in the Examiner’s Answer.

In addition, the Examiner’s Answer lists the sole ground of rejection as follows:

Claims 1-5, 7-16, 18-23, and 25-28 are rejected
Under 35 U.S.C. 103(a) as being unpatentable
Over Mccarthey [sic] et al., 6477464, in view of
Peterzell et al., 2003/0040292 [page 3].

It should be noted that claims 1-5, 7, 23 and 25 were cancelled per the Amendment filed December 1, 2005. See the Advisory Action mailed December 29, 2005.


Accordingly, it is

ORDERED that the application is returned to the Examiner:

1) for clarification under MPEP § 1211 regarding the pertinence of the McCarthy and Peterzell references listed on pages 3-5 of the Examiner’s Answer mailed April 7, 2006;

- 2) if appropriate, for compliance with MPEP § 1207.02(A)(8) by listing the McCarthy and Peterzell references in a revised Examiner's Answer under the heading "Evidence Relied Upon";
- 3) for a determination regarding the claimed involved in the rejection;
- 4) for notification to appellants regarding the action taken; and
- 5) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 
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